

Pro/Leg

MEMORANDUM FOR: Director of Central Intelligence

FROM: Frederick P. Hitz
Legislative Counsel

SUBJECT: Freedom of Information Act (FOIA) Amendments
Proposed by Representative Samuel L. Devine (R., Ohio)

1. Action Requested: None; this is for your information only.
2. Background: Representative Devine has recently proposed legislation which will, if enacted, amend certain portions of the FOIA. The bill, H.R. 13040, seeks six substantive changes to the current Act:

--Ten days compliance time for responding to FOIA requests extended to thirty days.

--Ten days extension time lengthened to fifteen days.

--U.S. District Court given authority to extend further, at Agency request, time periods as stated above if volume necessitates.

--Costs for Document Review may be charged, unlike the present FOIA, when such costs exceed \$100.

--Bill tries to lessen court discretion re in camera examination of documents for determination of proper classification.

--Agency Protection of Investigatory Records simplified (these have primary applicability to the FBI and other law enforcement agencies).

Although the above cited changes are fewer and less far reaching than we would like them to be, they are, in a number of respects, quite helpful. The time extensions, although still relatively short, are beneficial, making it more likely that, at least in simple cases, the Agency will have a better chance of responding in a timely fashion.

Moreover, the ability to charge for Document Review will result in a not insignificant savings to the Agency as the majority of man-hours are currently expended in review rather than search. A perhaps unintended side benefit of this charge provision might well be a decrease in the number of omnibus requests which we currently receive. It is our belief that once requesters realize that they will be charged for the hours involved in processing massive requests, many will refrain from requesting or turn to alternative sources of information.

While it is unlikely that this proposal will be enacted this session, Representative Devine's bill is helpful insofar as it demonstrates a certain degree of congressional recognition of the FOIA's administrative problems. It also helps build a record for future substantive changes to the Act.

On the topic of substantive changes, in preliminary discussions OMB has expressed a willingness to study coordinated and comprehensive amendments to the Act. We are also examining the possibility of suggesting to Representative Devine additional remedial language which would be of benefit to the Agency.

SIGNED

Frederick P. Hitz

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